



To: Multistate Tax Commission  
From: Gregory S. Matson  
Date: July 29, 2020  
**Subject: Annual Report of the Executive Director**

---

This report is a summary of the Commission's organizational and staff activities for the period July 1, 2019, through June 30, 2020 (unless otherwise noted).

## I. Programs & Activities

### A. Joint Audit Program

The Joint Audit Program completed one (1) corporate income tax audit and parts of ten (10) other corporate income tax audits during fiscal year 2020. Audit staff also completed seven (7) sales tax audits and parts of eight (8) other sales tax audits. Currently, there are nineteen (19) income tax audits and thirty-one (31) sales tax audits in progress.

The program proposed assessments of \$181,954,548 for completed and partially completed corporate income tax audits and \$1,625,565 for completed and partially completed sales tax audits during fiscal year 2020.

The following chart summarizes hourly data for completed audits during the 2020 fiscal year:

	<b>Income &amp; Franchise</b>	<b>Sales &amp; Use</b>	<b>Total</b>
<b>Total Audits</b>	1	7	8
<b>Total States Audited</b>	21	71	92
<b>Total Hours</b>	3296	9685	12981
<b>Average Hours per State</b>	157	136	141

The Audit Committee met for the first time in fiscal year 2020 on August 5, 2019, in Boise, ID. During this meeting the committee discussed the progress of current audits. The committee also reviewed the companies recommended for sales tax audits and voted to add ten of those companies to the sales tax audit inventory. MTC legal staff provided an update on recent state and local tax cases and the meeting ended with a round table discussion.

The Audit Committee met again on November 5, 2019, in San Antonio, Texas. During this meeting, members voted to allow taxpayer-provided audit narratives to be included, along

with Commission staff narratives, in the confidential audit packet provided to Audit Committee members for discussion beginning at the July 2020 committee meeting. The committee also discussed the progress of current audits and heard a legal update from the MTC legal staff.

The final meeting of Audit Committee was held via teleconference on April 28, 2019. During this meeting, the committee discussed the progress of current audits, and participated in a round table discussion in which member representatives compared new policies, procedures and software changes their agencies implemented to manage challenges presented by the COVID-19 pandemic. Due to challenges of providing a virtual meeting, the legal developments update customarily provided by the MTC legal staff was postponed. This training was later provided on June 12, 2020.

The Joint Audit Program's Chicago office officially closed this July 2020. Audit staff have been transitioning to a work from home model over the last several years. This transition has allowed the program to recruit more experienced and talented audit staff and save money on rent and utilities. MTC staff person Chris Lane traveled to Chicago and ensured all documents and equipment was properly disposed of and/or moved to the Washington, DC MTC office.

A note about the State Intercompany Transactions Advisory Service Committee (SITAS): The State Intercompany Transactions Advisory Committee was established to encourage discussions among Committee member states and other states pursuant to other information exchange agreements and authorizations. Progression of the Committee was stymied by the COVID-19 pandemic and the exit of Joe Garrett from state service. Further activities of the Committee and next steps for the Committee to consider continue to be discussed. The Joint Audit Program director will be staffing this committee in the future.

## **B. National Nexus Program**

### Multistate Voluntary Disclosure Program

The results for fiscal year 2020 are provided below:

- Nexus states' collections: \$21,551,287 (\$14,695,429 in FY 2019)
- Non-Nexus state collections: \$0 (\$48,892 in FY 2019)
- Nexus states' executed contracts: 544 (379 in FY 2019)
- Nexus states' average contract value: \$39,616 (\$38,774 FY 2019)

The above amounts include funds received by the Commission or paid by the taxpayer directly to the states and reported to the Commission. Interest on back tax paid and the ongoing value of a new taxpayer are not included. Applications continue to increase in the

post-*Wayfair* era. The Commission received applications from 208 taxpayers in calendar year 2019. For calendar year 2020 to date, 150 taxpayers have already applied. Most of the applications are based on sales/use tax economic nexus.

### Membership

There are currently thirty-eight participating states (including the District of Columbia) in the program. Commission staff continues to reach out to non-member states.

### Outreach

Richard Cram published an article entitled “*National Geographic*—Still Relevant After *Wayfair*?” in the January 27, 2020 issue of State Tax Notes.

Richard published a second article, this one in the March 2, 2020 issue of State Tax Notes, entitled “No More *Dilworth* Formalism After *Wayfair*.”

Staff continues to urge states to put a link to the program on their voluntary disclosure web pages.

### Nexus Schools

Please let a member of the Commission staff know if your state would like to host a Nexus School.

### Amnesties

The program posts on its web page a list of upcoming and current state tax amnesties. Please inform program staff if you would like the Commission to post your state’s amnesty.

### Staffing

The program presently has four permanent full-time staff members: Richard Cram, director, Diane Simon-Queen, voluntary disclosure program manager, Michelle Lewis, paralegal, and James Lee, program specialist.

This report is a summary of the Commission’s organizational and staff activities for the period July 1, 2019, through June 30, 2020 (unless otherwise noted).

## **C. Legal Division**

As of June 1, 2020, the legal division consists of seven attorneys, with Nancy Prosser joining the Commission as general counsel and Helen Hecht moving into her new role as uniformity counsel. Lila Disque continues as deputy general counsel, Bruce Fort continues as senior counsel, and Brian Hamer and Chris Barber continue as counsel. In addition, Tom

Shimkin, legislative counsel, is now integrated within the legal division after previously reporting to the deputy executive director.

The legal division staffs the Uniformity Committee and its various work groups (including research, drafting, presentations, and reports); staffs the Litigation Committee; provides attorney and other training; offers litigation support and legal advice to states; provides legal support to the Commission and its programs and projects (including the Joint Audit and National Nexus Programs and general administrative functions); files amicus briefs on behalf of the Commission; monitors and reports on state and federal legislation; and serves as a resource on legislative matters on behalf of the Commission. Members of the legal division publish articles in tax journals and regularly speak at conferences and seminars and (as detailed elsewhere in this report). In addition, the general counsel organizes the annual Paul Mines Award, which the Litigation Committee established to recognize contributions to state tax jurisprudence by public-sector attorneys.

### Uniformity Work

This fiscal year, the legal division staffed the following uniformity projects:

- Partnership Informational Project
- Model *Finnigan* Combined Filing Approach
- Wayfair Implementation and Marketplace Facilitator Work Group\*
- Updated P.L. 86-272 Statement of Information
- New Project Selection Project

\*The primary staff for this project was Richard Cram, director of the Commission's National Nexus Program.

As of the end of the year, the Model *Finnigan* Combined Filing work group and the P.L. 86-272 work group completed their work and the Uniformity Committee approved the draft proposals of both work groups. In April 2020, the Executive Committee asked that staff conduct public hearings of both models. Bruce Fort, Senior Counsel, acted as the hearing officer for the proposed Model *Finnigan* Combined Filing statute on June 9, 2020. The public hearing for the updated P.L. 86-272 Statement is scheduled for August 5, 2020.

### Litigation Committee Support and Attorney Training

The legal division staffed and helped provide presentations at the Litigation Committee meeting in Boise, Idaho, on August 6, 2019. The committee hosted Jasper Cummings for a discussion entitled [\*\*\*What is the Anti-Deference Movement Really About?\*\*\*](#) followed by a question and answer session. The legal division also developed and helped present a series of training presentations, including a skills presentation on writing a compelling brief and a discussion about the challenges of being a female attorney practicing tax law. For the November 4-5, 2019 meeting in San Antonio, Texas, legal staff presented an attorney training with an emphasis on ethics. The presentations were webcast, with lawyers from numerous states participating.

The Litigation Committee did not meet during the online Commission meetings in April 2020 due to the COVID-19 pandemic. However, the Committee sponsored and the legal staff planned two online trainings that were structured whenever possible to qualify for CLE and CPE credits and that featured staff from various departments of revenue and the practitioner community:

- Sourcing Receipts for Business Tax Purposes: Current Challenges (April 13, 2020) (160 registrants; 128 attendees)
- Recent Developments in State Sales and Use Taxation of Digital Services & Software (April 15, 2020) (172 registrants; 140 attendees)

#### Other Legal Training

The legal division plans and participates in two main types of Commission-sponsored training—structured courses on topics related to multistate taxation and facilitated roundtable discussions for particular states. The structured courses may cover both legal and audit topics and the facilitated roundtable discussions are customized for states based on the cases or issues they would like to discuss.

The legal division often works in conjunction with Commission audit staff to develop and present training. In May 2020, MTC legal and audit staff presented a three-session course titled “Basics of Transfer Pricing Practice and Theory for State Tax Lawyers and Auditors.” The registration and attendee statistics for each date were as follows:

May 12 – 336 registrants / 292 attendees  
May 19 – 317 registrants / 274 attendees  
May 28 – 262 registrants / 217 attendees

On June 12, 2020, members of the legal division provided a “Joint Audit Committee SALT Update” for 54 representatives of states that participate in the joint audit program, which focused on recent court cases that are relevant to state tax audits.

The legal division also developed and presented the following online programs that featured MTC staff, state department of revenue staff, and members of the practitioner community, which were well-received and each attended by hundreds of participants:

- The Future of Business Taxation by the States (June 2, 2020) (443 registrants / 357 attendees)
- Three States’ Experiences with ‘Top Ten’ Wayfair Implementation Issues (June 18, 2020) (346 registrants / 252 attendees)
- Perspectives of Private Sector State Tax Practitioners (June 24, 2020) (228 registrants / 174 attendees).

In August 2019, the legal division conducted a two-day facilitated corporate income tax training in South Carolina for 36 attendees. It was also heavily involved in planning and

presenting an in-person general corporate income tax training course September 24-27, 2019 in Itasca, Illinois for 56 attendees. It was not state-specific, but offered a comprehensive look at corporate taxation for auditors and lawyers, along with breakouts tailored to attendees' experience level. The training was well-received, and Commission staff plans to provide a second comprehensive training before the end of 2020 with amendments to the content based on feedback received from the inaugural course and in an online format due to the COVID-19 pandemic.

#### Litigation Support and Legal Advice

The legal division regularly consults with state attorneys by request on litigation matters – including strategy, issues, arguments, and moot courts – and on legislative and policy issues. The legal division has provided substantial legal consultation during this fiscal year to the states of South Carolina, Colorado, Pennsylvania, Washington, Kansas, New Jersey, Vermont, Arkansas, and Illinois. Topics included alternative apportionment, banking apportionment, audit issues, income taxation, market-based sourcing, business income, best practices for adopting combined filing, and applying exemptions when imposing tax on marketplaces. With respect to implementation of *Wayfair*, the legal division has been assisted by National Nexus Program Director Richard Cram.

The legal division also works with a group of state tax attorneys and with the National Association of Attorneys General to make sure that state attorneys general are aware of state cases in which the states may want to file joint amicus briefs.

#### Legal Support for the Commission's Programs and Projects

The legal division supports the Commission's Joint Audit and National Nexus Programs and other Commission programs and projects as requested. For example, the legal division has recently been consulting with the Joint Audit Program on waivers and the issuance and enforcement of administrative subpoenas. The legal division also provides support for the Commission's general administration by addressing open meetings issues, maintaining confidentiality policies, handling records requests, researching and making recommendations for record retention policies, resolving lease disputes, reviewing contracts, and filing corporate registrations and reports.

#### Amicus Briefs Filed on Behalf of the Commission

The legal division filed briefs in *Steiner v. Utah State Tax Commission*, Utah Supreme Court Case No. 20180223-SC. The case was decided in the state's favor.

#### Publications

Helen Hecht authored an article entitled "Fifty Years of MTC Uniformity Efforts: The Not-So-Obvious Lessons," published in the July 2019 issue of the *Journal of Multistate Taxation and Incentives*.

Brian Hamer authored “Is this the Revenue Solution to Chicago’s Fiscal Challenges?” in the August 5, 2019 issue of State Tax Notes and “The Surprise Road to Combined Reporting in Illinois” in the Special Fall 2019 Supplement to State Tax Notes published in connection with the 26<sup>th</sup> Annual Paul J. Hartman State and Local Tax Forum.

### Legislative Activities and Resources

The MTC legislative counsel:

- Monitors and analyzes federal legislation that affects states and sends alerts and analyses to member states as needed;
- Coordinates Commission responses to federal legislation which includes the preparation, in coordination with other Commission staff, of materials on preemption and leverages the greater lobbying power of other state organizations by being a subject-matter resource;
- Educates congressional members and staff about the negative effects of preemption generally and with respect to specific bills;
- Answers questions from member states about federal bills and trends in state legislation;
- Monitors state legislation and consults with states when requested;
- Increases the visibility and reputation of the Commission through relationships with legislators and their staff, taxpayer organizations, other multistate, governmental organizations, the public, and other stakeholders in federal and state legislation that preempts or substantially affects state taxation;
- Maintains a list of federal and state bills with summary and status information at <http://www.mtc.gov/Resources/Legislation>; and
- Answers questions about the Commission’s *Uniform Sales & Use Tax Exemption/Resale Certificate — Multijurisdiction*. We received an average of two contacts per day and explanations about the certificate are usually lengthy. Many of these contacts are from small remote sellers who are dealing with compliance issues they face in a post-*Wayfair* world.

Throughout fiscal year 2020 the legislative counsel has continued to increase the visibility of the Commission and promote the MTC as the “gold standard” for tax policy development. Counsel focuses on state and federal legislators and their staffs; the Congressional Budget Office; and multistate organizations such as the National Governor’s Association, the Federation of Tax Administrators; the Streamlined Sales Tax Governing Board; and the National Conference of State Legislatures (NCSL) Executive Committee Task Force on State and Local Taxation. Awareness of the Commission among state legislators who serve on tax committees has historically been low; counsel is working with the NCSL to develop awareness and relationships among these legislators.

Legislative counsel is monitoring the following federal issues, among others —

### Response to *Wayfair*

The federal response to *Wayfair* has been muted. Members from non-sales-tax states have introduced 11 anti-*Wayfair* bills this congressional session. Chairman Jerry Nadler (D-N.Y. 10<sup>th</sup>) of the House Committee on the Judiciary, which has jurisdiction over state tax bills, has demonstrated understanding of the dangers of state tax preemption. He is unlikely to allow the committee to consider preemption bills. No such bill has gained much support. One non-sales-tax state has mobilized state resources to discourage enforcement of other states' use-tax laws within its borders.

A subcommittee of the House Committee on Small Business held a hearing on March 3, 2020, to hear three representatives of small remote sellers and one from the American Institute of Certified Public Accountants (AICPA). The witnesses asked Congress to reduce the burden on "Main Street" [remote] businesses of having to comply with multiple state sales tax regimes, especially the multiplicity of local sales tax regimes. This hearing and other advocacy is unlikely to lead to any congressional action in this author's view because: 1) House Small Business does not have jurisdiction over state tax preemption; 2) Chairman Nadler of the House Committee on the Judiciary, which does have jurisdiction, is disinclined to preempt state taxation; 3) the Senate Committee on Finance, which does have jurisdiction, has no known plans to hold a similar hearing; 4) most physical presence retailers and their associations still want to prevent remote sellers from having a price advantage; and 5) not having witnesses with other views suggests that it was an opportunity for the small, remote seller community to be heard more than an exploration of the remote collection issue.

Legislative counsel also is monitoring bills that preempt state jurisdiction over remote collection, especially one targeted to small, remote sellers.

Forty-four of 46 states (includes D.C.) with sales taxes have completed their legislative changes to require collection from remote vendors that exceed a de minimis threshold, usually more than \$100,000 sales per year. Some states include "or 200 or more transactions" per year. Forty-two states out of 46 with sales taxes have passed bills to require marketplace facilitators to collect.

### Digital Goods

Senator John Thune (R-South Dakota) and Senator Ron Wyden (D-Oregon) introduced S. 765 (3 cosponsors currently). Representative Steve Cohen (D-Tennessee 19<sup>th</sup>) and Representative John Ratcliffe (R-Texas 4<sup>th</sup>) introduced companion bill H.R. 1725 (4 cosponsors currently). Both bills were introduced on March 13, 2019. S. 765 has been referred to the Senate Committee on Finance, on which Mr. Thune serves. Senator Wyden is the ranking member. H.R. 1725 has been referred to the House Committee on the Judiciary, on which Mr. Cohen serves.

Both bills prohibit a state from taxing a digital good unless the state also taxes its tangible equivalent. They also require that the incidence of the tax be on the end user. States with digital goods laws already generally comply with these rules. Interestingly, neither bill creates original jurisdiction in federal district courts, a provision that has been included in previous state tax preemption bills.

### Mobile Workforce

Senator John Thune (R-South Dakota) introduced S. 604 (38 cosponsors, roughly bipartisan). It prevents a state from taxing the income of a non-resident worker unless the worker engages in employment duties in the state for more than thirty days in the relevant tax year. However, Senator Chuck Schumer (D-New York) is the minority leader and has influence. He opposes the bill fiercely. New York estimates that the bill would reduce its revenue by \$100 million annually. A state and a city within that state have announced that they choose to tax the income of healthcare providers who sacrificed to help the state and city mitigate its horrific outbreak of COVID-19. It will be politically attractive to slip this act into an omnibus COVID-19 stimulus/relief bill or pass it stand-alone on the theory of justice for the healthcare workers. Thus the MWF that has not been approved in almost two decades of trying has a chance to become law.

Proponents are making this attempt in the form of S. 3995, the Remote and Mobile Workforce Act. This bill has the same provisions as the perennial Mobile Workforce Act, but extends the 30-day tax exemption in a nonresident state to 90 days when the worker earns income in the nonresident state on account of providing medical assistance related to COVID-19. Proponents will try to wiggle this bill into the text of the next relief/stimulus bill, but have a heavy lift due to the opposition of the New York delegation.

### BATSA

Rep. Steve Chabot (R-Ohio-1st) introduced H.R. 3063 (3 cosponsors), the Business Activity Tax Simplification Act, on June 3, 2019. The text is the same as last Congress' iteration except for the effective date. Supporters promote it as an update of P. L. 86-272 designed to reflect the contemporary economy. In reality it would hollow-out state taxation of multistate businesses. H.R. 3063 prohibits almost all state business-activity taxes (including net income, gross receipts, commercial activity, and business and occupation taxes) on entities doing business in a state by expanding protection to include intellectual property and services, allowing nexus-free physical presence in a state of fewer than 15 days (in contrast, the Mobile Workforce Act requires 30 days), exempting digital goods from taxation, and requiring states using combined or consolidated filing to use the *Joyce* apportionment method. A transliteration of the bill may be found on the MTC website in the Legislation portion of the Resources area.

### SALT Deduction

This is a personal income tax issue. Legislators from states whose residents are heavily burdened by the Tax Cuts and Jobs Act's \$10,000 cap on state and local taxes that may be deducted federally have introduced at least eleven bills to either remove the cap or allow their states to employ work-arounds. States also have tried litigation and a number of workarounds. These efforts have largely failed. The latest work-around some states have adopted is one that is available to members of passthrough entities; the IRS has conspicuously not disallowed it.

A summary of other matters of note:

- Congress and the President signed legislation to Extend the Authority for Commitments for the Paycheck Protection Program and Separate Amounts Authorized for Other Loans under Section 7(a) of the Small Business Act and for Other Purposes, [S. 4116](#). The legislation extends the Paycheck Protection Act until August 8, 2020. [07/08/2020 Became Public Law No: 116-147]
- INVEST in America Act, [H.R. 2](#), creates a pilot program for a national, per-mile user fee for automobiles to be used in part for infrastructure measures. However, it is also a Christmas tree of expensive, non-infrastructure provisions that make it DOA in the Senate. [Passed House July 1]
- The Heroes Act, [H.R. 6800](#). Passed House as of July 2, 2020. With few strings attached, gives \$540 billion to states, and \$375 billion to larger localities, tribes, and territories. DOA in Senate in current form; some provisions may make their way into subsequent legislation
- The Paycheck Protection Program Flexibility Act of 2020, [H.R. 7010](#), allows employers greater flexibility in how to use loans under the Paycheck Protection Program and extends the time for repayment from two to five years. Introduced as [H.R. 6886](#), it passed in the vehicle of [H.R. 7010](#). It is now [Pub. Law 116-142](#).

Resources:

- MTC Legislative Newsletters (Federal and State versions) are emailed to subscribers each Monday and available a day or two later at [MTC Legislative Division](#). Please contact [tshimkin@mtc.gov](mailto:tshimkin@mtc.gov) to subscribe.
- [Bloomberg Tax announced that it has removed its paywall for some news regarding COVID-19.](#)
- The Congressional Research Service (CRS) reports on [tax provisions of various COVID acts:](#)
- The CRS published a report on the [SALT deduction](#) (federal deduction on state and local tax)
- The Joint Committee on Taxation released a corrected copy of its [summary of P.L. 116-136, the CARES Act](#)

## **D. Policy Research**

Policy Research Director Elliott Dubin retired effective August 31, 2019. The policy research director had supported Commission efforts in addressing federal legislation with implications for state and local taxation and kept track of state adoption of Commission model statutes, regulations, and guidelines. He monitored research on the economic and fiscal impacts on the states resulting from the passage of the Tax Cuts and Jobs Act (TCJA). In addition, he participated in periodic local or online economic forums and seminars as well as in Commission working group teleconferences on *Wayfair* Implementation and Marketplace Facilitator Work Group and Combined Filing Model Working Group.

He and former Policy Research Intern Emma Snyder updated information on current economic conditions and trends in state and local government finance for the Commission's 52<sup>nd</sup> Annual Conference. Other work undertaken by the policy research director included consulting with the American Economics Group on evaluation of data models and data sources for estimating revenue impact of the *Wayfair v. South Dakota* decision, monitoring current economic conditions, and providing comments on Charles McLure's articles for State Tax Notes on aspects of the *Wayfair* decision.

Policy Research Intern Emma Snyder completed her internship in August 2019.

## **E. Training**

The training staff supported the following activities since July 1, 2019:

### Corporate Income Tax training

September 24 – 27, 2019, in Itasca, Illinois for 53 participants from the Alabama Department of Revenue, Arizona Department of Revenue, District of Columbia Office of Tax and Revenue, Idaho Office of the Attorney General, Idaho State Tax Commission, Iowa Department of Revenue, Kansas Department of Revenue, City of Kansas City, Missouri, Louisiana Department of Revenue, Maine Revenue Services, Minnesota Department of Revenue, Nebraska Department of Revenue, New York City Department of Finance, North Dakota Office of State Tax Commissioner, South Carolina Department of Revenue, Virginia Department of Taxation, and Washington Department of Revenue.

### Statistical Sampling for Sales and Use Tax Audits

October 8 – 11, 2019, in Portland Maine for 24 participants from Maine Revenue Services, Minnesota Department of Revenue, and Mississippi Department of Revenue.

### Attorney Training with an emphasis on Ethics

November 4 - 5, 2019, in San Antonio for 38 in-person attendees; and 40 people participating virtually.

On March 12, 2020, Commission staff held its first webcast training event, an in-depth look at partnership taxation and audits. Presenters Helen Hecht, Richard Cram, and Cathy Felix discussed federal tax developments, nexus issues, and common audit questions. The training was structured specifically so that attendees could claim CPE/CLE credits for tuning in and participating. Despite some initial technical issues, the training received strong reviews. Based on the need states have expressed for remote instruction and continuing professional education credits, staff presented a series of new webcast training events, some in conjunction with the Litigation and Audit Committees as explained in Section 1. C. of this report. We welcome topic recommendations and volunteer presenters.

Amid the COVID-19 pandemic and the restrictions on in-person meetings, events and training staff negotiated to re-book several in-person meetings scheduled for 2020 to mitigate any penalties that would have resulted in cancelling events. While many of the meetings may

be conducted via teleconference, the MTC is still obligated to fulfill the terms on existing hotel contracts.

- 2020 Spring Committee Meetings scheduled to occur April 26 – 29, 2020 were held via teleconference. Events staff negotiated to have the physical event rebooked with the Westin in Old Town Alexandria, VA for Spring 2021.
- Space for a Corporate Income Tax training at the National Conference Center in Leesburg, VA had been rebooked for June 2020, and then rebooked again for October 2020. Given that restrictions on travel and public gatherings are still in place, events staff will negotiate with the venue to rebook this training for some time in 2021.
- 2020 Annual Conference and Committee Meetings scheduled to occur in-person in Little Rock, AK will occur via teleconference. Staff was able to rebook the space with the DoubleTree for the 2022 Annual Conference and Committee Meetings.
- 2020 Fall Committee Meetings scheduled to occur in-person in Albuquerque, NM will be conducted via teleconference. The space has been rebooked for an in-person meeting for our Fall 2021 Committee Meetings to occur Nov. 14 – 19, 2021.

## II. Administration

The following MTC staff changes have occurred this fiscal year 2020:

**Marshall Stranburg**, deputy executive director, retired on April 30, 2020. Marshall had held that position since coming on board with the MTC on April 1, 2016.

**Michelle Becker**, administrative assistant for the Joint Audit Program, terminated her employment on May 29, 2020. Michelle's termination coincided with the closing of MTC's Des Plaines, Illinois office. Michelle had worked with the Commission since January 2013.

**Scott Pattison** joined the MTC staff on May 18, 2020 as deputy executive director. Previously Scott had served as executive director and CEO of the National Governors Association (NGA), and as executive director of the National Association of State Budget Officers (NASBO). Scott has held various position with the state of Virginia.

On June 1, 2020 **Helen Hecht** moved into the role of uniformity counsel and out of the general counsel position.

On June 1, 2020 **Nancy Prosser** started with the MTC as general counsel. Nancy had served with the Texas Comptroller of the Public Accounts since 2004 and since early 2018 as its general counsel. Prior to that, Nancy was with the law firm Vinson & Elkins LLP in Austin, Texas.

**Elliott Dubin**, director of policy research, retired August 31, 2019. Elliott began his employment with the Commission in March 1999.

On January 13, 2020, **Brian Staley** and on March 16, 2020, **Melissa Kopp** began employment with the Commission as income tax auditors. Both Brian and Melissa were long time employees of the Montana Department of Revenue.

**Parker Allen** was the legal division intern for the summer of 2020. A University of Richmond School of Law student, he received his undergraduate degree from Southern Methodist University in 2018.

Policy Research Intern **Emma Snyder** completed her internship in August 2019.

As was noted in the Joint Audit Program section of this report, the Commission has closed the Chicago audit office, located in Des Plaines, Illinois, the lease for which expires July 31, 2020. This office closure was contingent upon having successfully transitioned to file back-up in the cloud via Azure, which has occurred.

#### Technology Addendum

In response to the coronavirus pandemic, beginning in March 2020 most D.C. staff have been working remotely. The network administrator continues to support the remote users to ensure they have authorized access to the resources that they require. During the period that D.C. staff have been working remotely, the use of Microsoft Teams has become a priority. The network administrator has met with nearly all departments to facilitate video and audio conference calls, explain how files are shared through Teams, how to set up Teams calls, and how Team apps, such as Planner, can be used to help Teams organize tasks amongst the department.

The Audit History Database application is in the process of being upgraded. Yoodle, the company that created the application, has been tasked with making changes to the audit history database that will make it more functional for the current Joint Audit Program director. Testing for this application should begin in early August.

The Chicago office has been closed. The network administrator removed all computer and office equipment and transported it back to the D.C. office. The Canon copier in the Chicago office was relocated from Chicago to D.C. The data from the Chicago servers has been migrated to the file server in D.C. The network administrator is working to ensure that access controls on that data are properly configured.

The new version of the Nexus Program's Voluntary Disclosure Application and Online Application continues to move forward. Conversations between Nexus Program Staff and Decathlon Development Corporation are ongoing to fine tune specifics about the application.

The Azure backup solution has been implemented and backups are being replicated to the Azure Gov Cloud. The Barracuda Appliance continues to run backups on two targets in the D.C. office. That data is also being backed up to Azure. The Checkpoint firewalls and firewall manager appliance in the D.C. data center remain in the process of being upgraded. The Firewall Manager appliance was successfully upgraded. The enforcement point appliances were scheduled to be upgraded in the first week of April, but due to the coronavirus pandemic on site work restrictions, that date has been pushed back.

The normal maintenance of server hardware in the D.C. office on a regular basis through on-site visits by the network administrator.

### III. Outside Presentations & Events

The executive director serves as a member of the following annual conference advisory boards: Georgetown University Law Center's State and Local Tax Institute, the Hartman State and Local Tax Forum, the New England State and Local Tax Forum, and New York University's State and Local Tax Institute.

The following are the programs, conferences, and other events of outside organizations at which members of the staff represented the Commission during the reporting period:

#### JULY

- 2019 SEATA Conference; *Recent and Significant Court Cases (Including Sales and Corporate Taxes)* (Disque, panelist); *Transfer Pricing Impact on State Corporate Income Tax* (Coon, panelist); *Behind Door 4: Tax Administration Behind the Scenes* (Stranburg, panelist); Lake Buena Vista, Florida
- AICPA State and Local Tax Technical Resource Panel (Cram, Hamer, panelists); Washington, D.C.
- Washington State Tax Conference; *Great Debate* (Hecht, panelist); Pullman, Washington
- NYU Summer Institute in Taxation: State & Local Taxation; *A View From the State Tax Administrators* (Stranburg, panelist); *State Tax Implications of Federal Tax Reform: Interest Limitations and Opportunity Zones* (Stranburg, panelist); New York, New York
- Webcast presentation for The Knowledge Group; *Ensuring Compliance with Tax Laws and Minimizing Audit Risks with Sales Tax Automation* (Cram, panelist)

#### AUGUST

- 2019 Texas State Taxation Conference; Houston, Texas (Mond)
- NCSL 2019 Legislative Summit and Executive Committee Task Force on State and Local Taxation meeting; Nashville, Tennessee (Shimkin)
- 2019 FTA Technology Conference and Exhibition; Detroit, Michigan (Lane, Worthington)
- 2019 MSATA Conference; *Murphy v. NCAA* (Matson, panelist); *Income Repatriation: GILTI/FDII* (Hecht, panelist); Cleveland, Ohio

- Council on State Taxation Mid-Atlantic Regional State Tax Seminar; (Matson, panelist); McLean, Virginia

#### SEPTEMBER

- New Mexico Legislature Revenue Stabilization and Tax Policy Committee, *Post Wayfair Gross Receipts Tax/Compensating Use Tax Administration Issues* (Hecht, Cram presenters)
- 2019 NESTOA Conference; *Murphy v. New Jersey* (Matson, panelist); *Reviewing Wayfair and Resulting State Law and Policy Changes* (Cram, panelist); *Marketplace Facilitators* (Cram, panelist); *Court Case Round-up – Important Cases Affecting State and Local Tax Administration* (Hecht, panelist); Providence, Rhode Island.

#### OCTOBER

- Streamlined Sales Tax Governing Board Meeting; Charleston, West Virginia (Cram)
- 2019 ABA Fall tax Meeting; *State Corporate Income Tax Impacts of GILTI: Challenges and Opportunities* (Fort, panelist); San Francisco, California
- 2019 WASATA Conference; *Remote Sellers Administration* (Hecht, panelist); *Murphy v. NCAA* (Matson, panelist); Eugene, Oregon
- 26<sup>th</sup> Annual Paul J. Hartman State and Local Tax Forum; *Top Ten Income Tax Cases* (Fort, panelist); *Wayfair and the Future of State Income Tax Nexus* (Cram, panelist); *Combined Reporting Trends and Possible Future Developments* (Hamer, panelist); Nashville, Tennessee

#### NOVEMBER

- New England State and Local Tax Forum; *States' Reaction to the Federal Partnership Audit Regime and Other Uniformity Efforts* (Hecht, panelist); Newton, Massachusetts
- Bloomberg Tax Leadership Forum; *Aftershocks of Wayfair* (Cram, panelist); Washington, D.C.
- NCSL Executive Committee Task Force on State and Local Taxation meeting; Charleston, South Carolina (Shimkin)
- Maryland State Bar Association and Maryland Association of Certified Public Accountants 2019 Advanced Tax Institute; *State and Local Tax Developments – A National Perspective* (Disque, panelist); Baltimore, Maryland
- FTA Midwinter Commissioner Meeting; *Litigation Update* (Hecht); Washington, D.C.

#### DECEMBER

- NYU 38<sup>th</sup> Institute on State and Local Taxation; *Does Wayfair Affect P.L. 82-272?* (Hamer, panelist); *What's Happening Everywhere Today?* (Matson, panelist); New York, New York
- Tax Executives Institute - New York Chapter, 56<sup>th</sup> Annual Tax Symposium; New York, New York (Silver and Shinder)
- New Mexico CPA Society Tax Seminar, *State Tax Developments* (Hecht, panelist); Albuquerque, New Mexico

### JANUARY

- American Bar Association 2020 Midyear Tax Meeting; *Through the Mists of State Tax Administration* (Hamer panelist); Boca Raton, Florida
- Testimony before the Vermont Legislative Tax Policy Committee on market-based sourcing (Fort, via telephone)
- Testimony before the Pennsylvania Senate Democratic Policy Committee on combined filing (Fort); Harrisburg, Pennsylvania

### FEBRUARY

- 2020 FTA Compliance and Education Workshop; *Finding “Hidden” Remote Sellers and Encouraging Them to Register* (Cram, panelist); *Handling Partnership Return Audits in Light of Federal Tax Law Changes* (Hecht); *Digital Products and Services: What States Tax Them and How* (Cram, panelist); San Diego, California (Coon)
- Ernst & Young Quarterly Tax Webcast; *MTC P.L. 86-272 Project Update Discussion* (Hamer panelist); Washington, D.C.
- Louisiana Bar Association, Tax Section Annual Conference; *Partnership Audits – Making the Complex “Simple”* (Hecht); New Orleans, Louisiana
- Testimony before the Vermont Legislative Tax Policy Committee on combined filing exception for 80/20 companies, insurance companies, and *Finnigan* method combined reporting (Fort, via telephone)

### MARCH

- NYU SALT Luncheon Group; *MTC Update* (Stranburg); New York, New York
- Webinar presentation for Steptoe & Johnson LLP; *State and Local Taxation: Headline News and Trends* (Cram, panelist).
- Federal Bar Association Tax Law Conference; *Federal Limitations on State Taxation: Charitable Contributions, P. l. 86-272, and Others* (Hamer panelist); Washington, D.C.

### MAY

- *Institute for Professionals in Taxation webinar*; The Application of Public Law 86-272 to a Digital Economy (Hamer presenter)
- NCSL SALT Task Force webinar, *Impact of CARES Act on State Tax Systems* (Cram co-panelist)
- Basics of Transfer Pricing Practice and Theory for State Tax Lawyers and Auditors: Part I- May 12, 2020, Part II- May 19, 2020 and Part III- May 28, 2020

### JUNE

- AICPA SALT Technical Resource Panel (virtual) Spring Meeting; *Update from other State Organizations* (Cram, Hecht, and Prosser representing the MTC)
- Philadelphia Bar Association webinar; *The Future of Public Law 86-272* (Hamer panelist)

- Three States' Experiences with Top Ten *Wayfair* Implementation Issues, June 18, 2020
- Tax Notes Talk podcase on post-*Wayfair* tax update (Cram interview by reporter Jennifer McLoughlin)
- The Knowledge Group webinar, *State Sales Tax: Trends and updates since South Dakota v. Wayfair* (Cram co-panelist)
- Uniform Law Commission Online Sales Tax Collection Study Committee teleconference (Cram, observer)
- American Bar Association, State and Local Tax Group Virtual Meeting: *The Scope of P.L. 86-272 in this Post-Wayfair, High-Tech Era* (Hecht, panelist).